

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL NO. 15-_____
v.	:	DATE FILED: _____
DENNIS WEBER,	:	VIOLATION:
DALE WEBER,	:	18 U.S.C. § 371 (conspiracy
CARL M. WEBER STEEL SERVICE, Inc.	:	to commit wire fraud- 1 count)

INFORMATION

COUNT ONE

THE UNITED STATES ATTORNEY CHARGES THAT:

At all times relevant to this information:

INTRODUCTION

1. Defendant CARL M. WEBER STEEL SERVICE, INC. (WEBER STEEL), a Pennsylvania corporation headquartered in Kutztown, Pennsylvania, was a bridge and highway contractor, which specialized in the business of providing structural steel reinforcement and other construction services for bridges and highway structures in the Commonwealth of Pennsylvania.

2. Defendant DENNIS WEBER served as the President of defendant WEBER STEEL and defendant DALE WEBER served as the Vice-President and Chief Executive Officer (CEO). DENNIS WEBER and DALE WEBER controlled the operations and finances of WEBER STEEL.

(a) DENNIS WEBER selected the construction projects for WEBER STEEL to bid on and was responsible for the estimating and the preparation of bidding documents for the projects selected.

(b) DALE WEBER was responsible for hiring and firing laborers, project supervision, and purchasing materials and supplies.

3. Karen Construction Company, Inc. (Karen Construction), a Pennsylvania corporation located in Kutztown, Pennsylvania, was in the business of providing structural steel reinforcement and other construction services for bridges in highway construction projects in the Commonwealth of Pennsylvania. Karen Construction shared the same office location and labor pool, among other things, as Weber Steel.

4. The President of Karen Construction and majority owner was a female American (charged elsewhere). The President became the sole owner of Karen Construction in or about 2002. Karen Construction was certified as a Disadvantaged Business Enterprise (DBE), under the United States Department of Transportation, DBE Program (the DBE Program), by the Pennsylvania Department of Transportation (PENNDOT), an agency of the Commonwealth of Pennsylvania and a recipient of federal grant funds for highway and bridge construction projects. This certification enabled Karen Construction to qualify as economically and socially disadvantaged, and to receive lucrative subcontracts from general contractors that were required to subcontract a portion of the contract award to DBEs under the DBE Program.

5. From in or about April 1995 through October 2011, Karen Construction obtained 224 bridge and highway subcontracts as a DBE and received the sum of approximately \$18.7 million for construction work performed pursuant to those subcontracts under the DBE Program.

These subcontracts related to providing and installing structural steel for bridge construction on federally funded Pennsylvania highway projects.

The DBE Program

6. The United States Department of Transportation (USDOT) awards billions of dollars annually, through direct contracts with private firms and grants to state and local agencies to finance transportation projects nationwide, including in the Commonwealth of Pennsylvania. Highway construction comprises the largest share of these funds and the Federal Highway Administration (FHWA), an agency within the USDOT, provides the financial assistance in the form of grants to state and city agencies for the construction and maintenance of highways. Since 1983, statutes and regulations require USDOT and FHWA to ensure that at least 10% of the funds authorized for highway construction projects be expended with DBEs.

7. In order to be certified as a DBE, a person must own 51% or more of a small business and must establish that she is disadvantaged within the meaning of the program, including demonstrating control of the business and that the business is independent with sufficient resources and employees to fulfill its contracts.

8. Primary responsibility for the administration of the DBE program is delegated to state and city agencies that receive USDOT funds and which are to establish DBE programs in conformity with federal regulations.

9. PENNDOT, as a recipient of USDOT grant funds from FHWA for construction projects, is required to establish goals and objectives for administering the DBE program. The DBE Program allows work actually performed by a DBE subcontractor to count toward the general contractor's designated DBE goals. Only funds paid to a DBE that performs a "commercially useful function" in the execution of a contract qualifies toward meeting these

DBE goals. A DBE does not perform a commercially useful function if its role is limited to that of an extra-participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. The DBE performs a “commercially useful function” when it is responsible for the following:

(a) executing the contract work and carrying out its responsibilities by actually performing, managing, and supervising the project work involved; and

(b) determining the quality and quantity of the materials and supplies needed for the project, negotiating the price for the materials and supplies, as well as ordering, installing and paying for the material itself.

THE CONSPIRACY

10. From in or about April 1995 to in or about November 2011, in the Eastern District of Pennsylvania and elsewhere, defendants

**DENNIS WEBER, President
DALE WEBER, Vice-President and CEO, and
CARL M. WEBER STEEL SERVICE, INC.**

conspired and agreed, together and with the President of Karen Construction Co., Inc., and others known to the United States Attorney, to knowingly and intentionally commit wire fraud, in violation of Title 18, United States Code, Section 1343, by utilizing Karen Construction as a sham DBE to enable Karen Construction to secure contracts for federally funded highway projects from USDOT, when in reality, Karen was not a bona fide DBE and was controlled by defendants DENNIS WEBER and DALE WEBER, principals and owners of defendant WEBER STEEL.

MANNER AND MEANS OF THE CONSPIRACY

It was part of the conspiracy that:

11. Karen Construction was set up to function as a sham DBE, enabling Karen Construction to seek and obtain lucrative federally funded highway projects that defendant WEBER STEEL could not, because WEBER STEEL was not a DBE.

12. Defendants DENNIS WEBER and DALE WEBER, the principals and owners of defendant WEBER STEEL *de facto* controlled Karen Construction:

(a) Defendant DENNIS WEBER was primarily responsible for sales and marketing for Karen Construction. DENNIS WEBER selected the projects which Karen Construction bid on and performed the estimating on all the federal highway projects for which Karen Construction submitted bids.

(b) Defendant DALE WEBER was salaried as a fulltime employee of Karen Construction. DALE WEBER purchased inventory for Karen Construction, including materials for the projects that Karen Construction was awarded, and handled project supervision. DALE WEBER assisted Karen Construction in hiring its employees and this labor pool was shared by both defendant WEBER STEEL and Karen Construction;

(c) Karen Construction rented office space and leased the equipment used for its projects from defendant WEBER STEEL. Karen Construction shared a computer network, telephone system, fax machine and an office manager with WEBER STEEL at the Kutztown location.

13. In DBE recertification applications submitted to PENNDOT for Karen Construction in February 2002, February 2005, and May 2009, which were signed by the President of Karen Construction under penalties for false statements or omissions, Karen

Construction concealed the control over the operations of Karen Construction wielded by defendants DENNIS WEBER and DALE WEBER, and falsely represented that Karen Construction was an independent business which did not depend on its relationship with another firm; was responsible for the execution of the work on the contracts it handled and actually performed, managed and supervised; and with respect to materials and supplies, negotiated price, determined quality and quantity, ordered materials and paid for materials for projects.

14. Defendant DENNIS WEBER's and defendant DALE WEBER's control over the operations of Karen Construction enabled Karen Construction to fraudulently obtain 224 federally funded highway and bridge construction contracts as a DBE from USDOT. Karen Construction received approximately \$ 18.7 million in payments for the DBE work performed. Karen Construction performed the required DBE work using the labor pool it shared with defendant WEBER STEEL and the equipment it rented from WEBER STEEL, among other things.

15. Karen Construction created and submitted false reports, certifications, invoices and correspondence which misrepresented to PENNDOT and the USDOT that Karen Construction was in compliance with the DBE contract requirements in order to enrich Karen Construction and its principals, as well as defendants DENNIS and DALE WEBER and WEBER STEEL through this scheme to obtain lucrative federally funded highway and bridge construction projects as a DBE.

16. Defendants DENNIS WEBER and DALE WEBER directed that profits from Karen Construction be shared with DENNIS WEBER and DALE WEBER in year-end bonus payments that were disguised through phony invoicing to mask the transfer of funds from Karen Construction to DENNIS and DALE WEBER. The President of Karen Construction did not

receive any bonuses from defendant WEBER STEEL or otherwise share in the profits of WEBER STEEL.

OVERT ACTS

In furtherance of the conspiracy, the following overt acts, among others, were committed in the Eastern District of Pennsylvania, and elsewhere:

17. On or about the following dates, each date constituting a separate act, the President of Karen Construction signed and submitted a DBE Certification Affidavit to PENNDOT seeking DBE recertification for Karen Construction, which document was false and fraudulent, in that it concealed that defendant WEBER STEEL controlled Karen Construction, that defendant DENNIS WEBER, President of WEBER STEEL performed the project selection and estimating for Karen Construction, and that defendant DALE WEBER, the Vice-President of WEBER STEEL, made all major purchasing decisions for Karen Construction, among other things:

- a. February 26, 2002;
- b. February 25, 2005; and
- c. May 22, 2009.

PROJECT #1

18. On or about May 19, 1998, the President of Karen Construction signed a subcontract with a general contractor to perform DBE work on a PENNDOT Project involving work on I-95 in Philadelphia, PA (Project #1), which bid was submitted by the President of Karen Construction based on an estimate completed by defendant DENNIS WEBER for Karen Construction.

19. In or about February 2000, the general contractor received the sum of \$444,778.40 in credit from PENNDOT towards its DBE goal for work performed by Karen Construction as a DBE on the above project.

20. As of in or about October 2001, the FHWA had authorized payments for all work performed, which included the DBE work performed by Karen Construction, which payments were wire transferred from the Highway Trust Fund in Washington D.C. to the Commonwealth of PA.

PROJECT #2

21. On or about December 19, 2007, defendant DENNIS WEBER completed an estimate for Karen Construction to perform DBE work on a PENNDOT Project involving work on I-476, the Schuylkill River Bridge in Montgomery County, PA (Project #2), which estimate was signed by the President of Karen Construction and faxed from defendant WEBER STEEL to various general contractors.

22. On or about June 24, 2008, the President of Karen Construction signed a subcontract with a general contractor to perform DBE work on Project #2.

23. On or about September 1, 2010, the general contractor applied for and received the sum of \$76,356.35 in credit from PENNDOT towards its DBE goal for DBE work performed by Karen Construction on the above project.

24. On or about September 3, 2010, the FHWA authorized payment for the work performed, which included the DBE work performed by Karen Construction, which amount was wire transferred from the Highway Trust Fund in Washington D.C. to the Commonwealth of PA.

25. On or about September 14, 2010, a check in the amount of \$76,356.35 was deposited into Karen Construction's business bank account for DBE work performed by Karen Construction on Project #2.

PROJECT #3

26. On or about November 5, 2008, defendant DENNIS WEBER completed an estimate for Karen Construction to perform DBE work on a PENNDOT project involving a highway interchange in Cumberland County, PA (Project #3), which estimate the President of Karen Construction signed and faxed from defendant WEBER STEEL to various general contractors.

27. On or about July 2, 2011, FHWA authorized payment for the work performed on the above project, which included the sum of \$39,246 for the DBE work performed by Karen Construction, which was wire transferred from the Highway Trust Fund in Washington, D.C. to the Commonwealth of Pennsylvania.

28. On or about July 6, 2011, PENNDOT paid the general contractor for work performed on Project # 3, which included the amount of \$39,246.64 for DBE work performed by Karen Construction.

29. On or about July 15, 2011, a check in the amount of \$39,246.64 for the DBE work performed on Project #3 was deposited into Karen Construction's business bank account.

PROJECT #4

30. On or about October 24, 2007, defendant DENNIS WEBER completed an estimate for Karen Construction to perform DBE work on a PENNDOT project that involved work on Route 202 in Bridgeport, Montgomery County, PA (Project # 4), which estimate was

signed by the President of Karen Construction and faxed from defendant WEBER STEEL to various general contractors.

31. On or about August 1, 2009, the general contractor awarded the contract received the credit of \$22,537.50 towards its DBE goal for DBE work performed by Karen Construction on the above project.

32. On or about August 4, 2009, FHWA authorized payment for the work performed by the general contractor on Project #4, which included the sum of \$22,537.50 for the DBE work performed by Karen Construction, which was wire transferred from the Highway Trust Fund in Washington D.C. to the Commonwealth of PA.

33. On or about August 7, 2009, a check in the amount of \$22,537.50 for DBE work performed on the above project was deposited into Karen Construction's business bank account.

PROFIT- TAKING

34. In or about December 1996, defendants DENNIS and DALE WEBER prepared a phony invoice to Karen Construction for the sum of \$9,568.18 purportedly for the supply of connector studs, which, in reality, disguised the transfer of profits from Karen Construction to defendant WEBER STEEL to the benefit of DENNIS WEBER and DALE WEBER.

35. On or about December 28, 2007, defendants DENNIS WEBER and DALE WEBER issued a phony invoice to Karen Construction for the sum of \$15,306.17 purportedly for the supply of metal connector studs, which, in reality, disguised the transfer of profits from Karen Construction to defendant WEBER STEEL to the benefit of DENNIS WEBER and DALE WEBER.

36. On or about April 28, 2008, Karen Construction paid defendant WEBER STEEL by check in the amount of \$15,306.17 for the above phony invoice, which payment was falsely recorded on the books of WEBER STEEL.

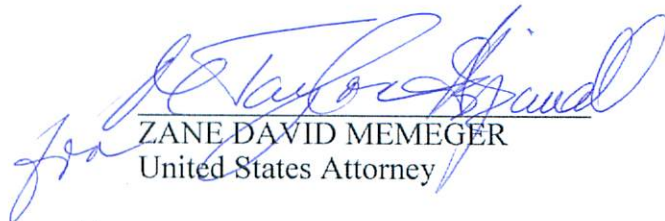
37. On or about November 12, 2010, defendants DENNIS WEBER and DALE WEBER prepared a phony invoice to Karen Construction for the sum of \$41,822.09 purportedly for the supply of metal materials, which, in reality, disguised the transfer of profits from Karen Construction to defendant WEBER STEEL to the benefit of DENNIS WEBER and DALE WEBER.

38. On or about December 20, 2010, Karen Construction paid defendant WEBER STEEL by check in the amount of \$41,822.09 for the above phony invoice, which payment was falsely recorded on the books of WEBER STEEL as "KC Inventory."

39. On or about December 3, 2010, defendants DENNIS WEBER and DALE WEBER prepared a phony invoice to Karen Construction in the amount of \$25,179.59 purportedly for the supply of metal materials, which, in reality, disguised the transfer of profits from Karen Construction to defendant WEBER STEEL to the benefit of defendants DENNIS WEBER and DALE WEBER.

40. On or about December 23, 2010, Karen Construction paid defendant WEBER STEEL by check in the amount of \$25,179.59 for the above phony invoice, which payment was falsely recorded on the books of WEBER STEEL as "KC Inventory."

All in violation of Title 18, United States Code, Section 371.


ZANE DAVID MEMEGER
United States Attorney